

**Introduced by Committee on Judiciary (Senators Corbett (Chair),
Florez, Harman, Leno, and Walters)**

February 27, 2009

An act to amend Section 116.820 of the Code of Civil Procedure, and to amend Section 19280 of the Revenue and Taxation Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 556, as introduced, Committee on Judiciary. Courts.

(1) Existing law provides that the judgment of a small claims court may be enforced as provided for the enforcement of judgments of other courts. Existing law requires the clerk of the small claims court to charge and collect specified fees for the issuance of a writ of execution or an abstract of judgment, and for an application for an order of examination of a judgment debtor.

This bill would require the clerk of the small claims court to charge and collect all fees associated with the enforcement of small claims court judgments, including, among other things, statutory fees for preparing and issuing, and recording and indexing, an abstract of judgment or a certified copy of a judgment, statutory fees for filing a notice of judgment lien on personal property, and statutory fees for issuing a writ for the enforcement of the judgment, as specified.

(2) Existing law provides that delinquent fines, state or local penalties, forfeitures, restitution fines and orders, and any other amounts imposed by a superior court upon a person or entity for criminal offenses, that total at least \$100 in the aggregate, may be referred by the court, county, or state to the Franchise Tax Board for collection, as specified.

This bill would additionally authorize the referral of delinquent bail amounts imposed by a superior court to the Franchise Tax Board for collection pursuant to this provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 116.820 of the Code of Civil Procedure
2 is amended to read:

3 116.820. (a) The judgment of a small claims court may be
4 enforced as provided in Title 9 (commencing with Section 680.010)
5 of Part 2 and in Sections 674 and 1174 on the enforcement of
6 judgments of other courts. A judgment of the superior court after
7 a hearing on appeal, and after transfer to the small claims court
8 under subdivision (d) of Section 116.780, may be enforced like
9 other judgments of the small claims court, as provided in Title 9
10 (commencing with Section 680.010) of Part 2 and in Sections 674
11 and 1174 on the enforcement of judgments of other courts.

12 ~~(b) The fees specified in subdivision (a) of Section 70626 of~~
13 ~~the Government Code shall be charged and collected by the clerk~~
14 ~~for the issuance of a writ of execution, or an abstract of judgment.~~
15 ~~The fee specified in Section 70617 of the Government Code shall~~
16 ~~be charged for an application for an order of examination of a~~
17 ~~judgment debtor. The clerk of the court shall charge and collect~~
18 ~~all fees associated with the enforcement of judgments under Title~~
19 ~~9 (commencing with Section 680.010) of Part 2. The clerk shall~~
20 ~~immediately deposit all the fees collected under this section into~~
21 ~~a bank account established for this purpose by the Administrative~~
22 ~~Office of the Courts. The money shall be remitted to the State~~
23 ~~Treasury under rules adopted by, or trial court financial policies~~
24 ~~and procedures authorized by, the Judicial Council under~~
25 ~~subdivision (a) of Section 77206 of the Government Code. The~~
26 ~~Controller shall distribute the fees to the Trial Court Trust Fund~~
27 ~~as provided in Section 68085.1 of the Government Code.~~

28 (c) The prevailing party in any action subject to this chapter is
29 entitled to the costs of enforcing the judgment and accrued interest.

30 SEC. 2. Section 19280 of the Revenue and Taxation Code is
31 amended to read:

19280. (a) (1) Fines, state or local penalties, *bail*, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior court of the State of California upon a person or any other entity that are due and payable in an amount totaling no less than one hundred dollars (\$100), in the aggregate, for criminal offenses, including all offenses involving a violation of the Vehicle Code, may, no sooner than 90 days after payment of that amount becomes delinquent, be referred by the superior court, the county, or the state to the Franchise Tax Board for collection under guidelines prescribed by the Franchise Tax Board. Unless the victim of the crime notifies the Department of Corrections and Rehabilitation to the contrary, the Department of Corrections and Rehabilitation may refer a restitution order to the Franchise Tax Board, in accordance with subparagraph (B) of paragraph (2), for any person subject to the restitution order who is or has been under the jurisdiction of the Department of Corrections and Rehabilitation.

(2) For purposes of this subdivision:

(A) The amounts referred by the superior court, the county, or state under this section may include an administrative fee and any amounts that a government entity may add to the court-imposed obligation as a result of the underlying offense, trial, or conviction. For purposes of this article, those amounts shall be deemed to be imposed by the court.

(B) Restitution orders may be referred to the Franchise Tax Board only by a government entity, as agreed upon by the Franchise Tax Board, provided that all of the following apply:

(i) The government entity has the authority to collect on behalf of the state or the victim.

(ii) The government entity shall be responsible for distributing the restitution order collections, as appropriate.

(iii) The government entity shall ensure, in making the referrals and distributions, that it coordinates with any other related collection activities that may occur by superior courts, counties, or other state agencies.

(iv) The government entity shall ensure compliance with laws relating to the reimbursement of the State Restitution Fund.

(C) The Franchise Tax Board shall establish criteria for referral, which shall include setting forth a minimum dollar amount subject to referral and collection.

1 (b) The Franchise Tax Board, in conjunction with the Judicial
2 Council, shall seek whatever additional resources are needed to
3 accept referrals from all 58 counties or superior courts.

4 (c) Upon written notice to the debtor from the Franchise Tax
5 Board, any amount referred to the Franchise Tax Board under
6 subdivision (a) and any interest thereon, including any interest on
7 the amount referred under subdivision (a) that accrued prior to the
8 date of referral, shall be treated as final and due and payable to the
9 State of California, and shall be collected from the debtor by the
10 Franchise Tax Board in any manner authorized under the law for
11 collection of a delinquent personal income tax liability, including,
12 but not limited to, issuance of an order and levy under Article 4
13 (commencing with Section 706.070) of Chapter 5 of Division 2
14 of Title 9 of Part 2 of the Code of Civil Procedure in the manner
15 provided for earnings withholding orders for taxes.

16 (d) (1) Part 10 (commencing with Section 17001), this part,
17 Part 10.7 (commencing with Section 21001), and Part 11
18 (commencing with Section 23001) shall apply to amounts referred
19 under this article in the same manner and with the same force and
20 effect and to the full extent as if the language of those laws had
21 been incorporated in full into this article, except to the extent that
22 any provision is either inconsistent with this article or is not
23 relevant to this article.

24 (2) Any information, information sources, or enforcement
25 remedies and capabilities available to the court or the state referring
26 to the amount due described in subdivision (a), shall be available
27 to the Franchise Tax Board to be used in conjunction with, or
28 independent of, the information, information sources, or remedies
29 and capabilities available to the Franchise Tax Board for purposes
30 of administering Part 10 (commencing with Section 17001), this
31 part, Part 10.7 (commencing with Section 21001), or Part 11
32 (commencing with Section 23001).

33 (e) The activities required to implement and administer this part
34 shall not interfere with the primary mission of the Franchise Tax
35 Board to administer Part 10 (commencing with Section 17001)
36 and Part 11 (commencing with Section 23001).

37 (f) For amounts referred for collection under subdivision (a),
38 interest shall accrue at the greater of the rate applicable to the
39 amount due being collected or the rate provided under Section
40 19521. When notice of the amount due includes interest and is

1 mailed to the debtor and the amount is paid within 15 days after
2 the date of notice, interest shall not be imposed for the period after
3 the date of notice.

4 (g) In no event shall a collection under this article be construed
5 as a payment of income taxes imposed under Part 10 (commencing
6 with Section 17001) or Part 11 (commencing with Section 23001).

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